

STATE STATUTES AND REGULATIONS APPLICABLE TO CHARTER SCHOOLS

The following summaries are of laws which are most applicable to Charter Schools, including those which generally apply to businesses, employers or schools. The statutory reference is provided for each general area discussed.

This section is not intended to be an exhaustive discussion of all applicable statutes. Please be advised that policy or legislative changes may render some information obsolete. Responsibility for compliance with current policies and legislation rests solely with the applicant and/or charter school operators.

Specific questions regarding applicability or exceptions should be referred to legal counsel for the Charter School.

Title 8 and Title 15 Provisions: Children and School Attendance.

- 1. Habitual Truancy/Incorrigibility.** A child between the ages of six (6) and sixteen (16) years of age who is not enrolled in and attending school, as required at ARS §15-803, may be determined to be an "incorrigible child" as defined at ARS §8-201. Violations may be cited through a traffic ticket-type complaint (ARS §15-805). (ARS §8-201; ARS §15-802, 803, and 805).

Title 13 Provisions: Criminal Offenses.

- 1. Offenses Against Public Order.** A person may be convicted of a Class 1 misdemeanor by knowingly going or remaining upon the property of any educational institution in violation of any rule of the institution, or for the purpose of interfering with the lawful use of the property. Also applies if the person refuses to obey a lawful order of the chief administrative officer, or designee, to leave the property (ARS §13-2911).
- 2. Family Offenses.** Requires school personnel, among others, to immediately report (to a peace officer or to Child Protective Services in the Department of Economic Security) those injuries which reasonably indicate that a child is or has been the victim of injury, sexual abuse (ARS §13-1404), sexual conduct with a minor (ARS §13-1405), sexual assault (ARS §13-1406), molestation of a child (ARS §13-1410), commercial sexual exploitation of a minor (ARS §13-3552), sexual exploitation of a minor (ARS §13-3553), incest (ARS §13-3608), child prostitution (ARS §13-3212), death, abuse (ARS §8-201), or physical neglect which appears to be nonaccidental, or denial of necessary medical or surgical care or nourishment (ARS §13-3620).
- 3. Weapons Offenses** ARS §15-515 requires school personnel to report, immediately through the school administrator, violations of ARS §13-3102 (A) (12) (possessing a deadly weapon on school grounds) or ARS §13-3111 (minors carrying or possessing firearms) on school premises.

4. **Tobacco Use by Minors** A person who knowingly sells, gives, or furnishes cigars, cigarettes or cigarette papers, smoking or chewing tobacco, to a minor, and a minor who buys, or has in his/her possession or knowingly accepts or receives from any person, cigars, cigarettes, or cigarette papers, smoking or chewing tobacco of any kind, is guilty of a petty offense (ARS §13-3622).
5. **Drug Offenses** It is unlawful for a person to possess, use or sell marijuana, peyote, prescription-only drugs, dangerous drugs, or narcotic drugs within a drug-free school zone (*i.e.* the area within 300 feet of a school or its accompanying grounds, any public property within 1,000 feet of a school or its accompanying grounds, a school bus stop or on any school bus or bus which transports pupils to any school). All school personnel who observe such a violation must immediately report it to a school administrator, who must report the violation to a peace officer (ARS §13-3411).

Title 15 Provisions: Education.

1. **Definitions.** Provides general definitions applying to Title 15, including “charter school”, “parent” and “person who has custody” (ARS §15-101).
2. **Pest Management.** Requires development and adoption of a policy to provide pupils and employees with at least 48 hours notice before pesticides are applied on school property. Guidelines include specific components, including the manner of notice to be given and the maintenance of written records of notices. (ARS §15-152).
3. **Educational Records.** Provides that the right to inspect and review educational records and the release of or access to such records is generally governed by the Family Educational Rights and Privacy Act (20 USC §1232 *et seq.*) and its implementing regulations. Also provides for injunctive or special action relief whether or not the educational agency receives federal funding (ARS §15-141). *See also*, ARS §15-828(G) regarding parental consent requirements.
4. **Safety Requirements.** Addresses the requirement to wear eye protective devices (ARS §15-151).
5. **Charter Schools.** Authorizes the establishment of Charter Schools and addresses application requirements, immunity provisions, exemptions, renewal of charters and prohibiting reprisal against public school employees who seek to start a Charter School (ARS §15-181 *et seq.*). Addresses the legal requirements for admission of students (ARS §15-184), financial provisions (ARS §15-185), protection for teachers (ARS §15-187), optional inclusion of charter school employees in state health and accident coverage; payment of premiums; advance notice; minimum period of participation; definitions(15-187-01), and funding from the Charter Schools Stimulus Fund (ARS §15-188). *At this time no money has been appropriated to support the Charter Schools Stimulus Fund.*
6. **Procurement Practices of Schools.** Describes the legal requirements for procurement practices, which also apply to Charter Schools. Requires the State Board of Education to

prescribe rules addressing procurement issues, which are located in Arizona Administrative Code (AAC) R7-2-1000, *et seq.*, (ARS §§15-183 and 15-213).

- 7. Uniform System of Financial Records.** Requires the auditor general to determine the accounting systems, accounting methods and procedures to be utilized by school districts and, in conjunction with the Department of Education, prescribe a uniform system of financial records for utilization by all school districts (and Charter Schools) each fiscal year (ARS §§15-183, 15-271 and 15-272).

- 8. School Accountability; Failing schools.** The department of education shall compile an annual achievement profile for each public school consisting of:

1. Arizona instrument to measure standards scores and passage rates.
2. Adequate yearly progress data.
3. Dropout rate.

Each school shall submit to the department any data that is required and requested and that is necessary to compile the achievement profile. A school that fails to submit the information that is necessary is not eligible to receive monies from the classroom site fund established by ARS§ 15-977.

If a charter school is designated as a failing school, the department of education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the charter school's charter. (ARS§ 15-241)

- 9. Administration of Medication.** Requires policies and procedures for administration of prescription medications including authorization by a parent or legal guardian (ARS §15-344).

- 10. Chronic Health Problems.** "Pupils with chronic health problems" means pupils who are unable to attend regular classes for intermittent periods of one or more consecutive days because of illness, disease or accident but who are not homebound. Requires the adoption of policies and procedures concerning pupils with chronic health problems, which provide for continued learning for pupils while they are absent from school and integration of such students into regular classes to the extent possible. Requires provisions for homework availability to allow students to keep up with assignments and avoid loss of credit due to absence, and flexibility in physical education requirements (ARS §15-346).

- 11. Insurance/Bond Premiums.** When a school executes a bond in favor of the federal government, or insurance for federal buildings or equipment being used for school purposes, any premiums paid on the bond or insurance must be charged against the funds of the school (ARS §15-385).

- 11. Pulmonary Disease.** An employee cannot be required to submit to periodic examinations for tuberculosis, except where the employee displays symptoms of the disease, in which case an employee may be required to submit to such tests or examinations as a licensed physician deems appropriate (ARS §15-505).

- 12. Abuse of a Teacher** Provides that abuse of a teacher or other school employee on school grounds or while engaged in the performance of duties, is a Class 3 misdemeanor (ARS §15-507)
- 13. Fingerprinting: Noncertificated Personnel and Volunteers** Noncertified personnel and volunteers who are not either the parent or guardian of a child in the school district, but who work directly with children without the supervision of a certificated employee must have a class one or class two fingerprint clearance card as condition of employment. Certain exceptions apply for persons who have already been fingerprinted. Costs may be charged to the fingerprinted employee, but may not be charged to persons who are not paid employees. Provides that a school may refuse to hire, or may terminate, personnel who have been convicted of or admitted committing any of the offenses specified (ARS §15-512).
- 14. Fingerprinting: Certificated Employees** Persons who apply for certification through the Department of Education must be fingerprinted. Provides that a school may refuse to hire, or may terminate, the employment of persons who have been convicted of or admitted committing any of the offenses specified (ARS §§15-512 and 15-534). The Department of Education no longer processes fingerprints. To obtain an application packet for a fingerprint clearance card, please contact the Arizona Department of Public Safety at 602-223-2279. You may also contact them by mail at Mail Code 2200, Applicant Clearance Card Team, Arizona Department of Public Safety, P.O. Box 6638, Phoenix, AZ 85005-6638 or visit them at 2320 N. 20th Ave., Phoenix, AZ.
- 15. Transportation Employees: Drug and Alcohol Testing** Transportation employees must submit to drug and alcohol testing if the supervisor of the employee, or the supervisor's designee, has probable cause to believe that the employee's job performance has been impaired by the use of alcohol or a drug. Probable cause is to be based on observations and shall be documented by an affidavit signed by the person who observed the behavior and the supervisor of the employee or the supervisor's designee. The school must pay for the costs of drug and alcohol testing, which may be charged back to the employee if the results are positive. An employee who refuses testing or whose test results are positive may be terminated from employment (ARS §15-513).
- 16. Revocation of a Teaching Certificate** A teacher's certificate may be revoked if the teacher has been convicted of or admitted to committing a dangerous crime against children (ARS §13-604.01); sexual abuse (ARS §13-1404) or sexual assault (ARS §13-1406) in which the victim was a minor; sexual conduct with a minor (ARS §13-1405); or an act committed in another State or territory which would have been a violation of one of the enumerated offenses if committed in Arizona (ARS §15-550). A teacher who uses sectarian or denominational books or teaches any sectarian doctrine or conducts any religious exercises in school is guilty of unprofessional conduct and his or her certificate shall be revoked (ARS §15-535).
- 17. Disciplinary Hearings: Confidentiality.** The governing board (or Charter School) and the State Board of Education shall keep confidential the names of any pupils involved in a hearing regarding the dismissal or discipline of an employee or action on a certificate. The pupil's name shall not be disclosed without parental consent or unless authorized pursuant to an order of the superior court (ARS §15-551).

- 18. Course of Study.** The State Board of Education is to prescribe a minimum course of study and competency goals on essential skills, and to develop and adopt competency tests for high school graduation in reading, writing and mathematics. (Arizona Constitution, Art. XI, which requires a "general and uniform" public school system; (ARS §15-701 and AAC R7-2-301 [common schools]; ARS §15-701.01 and AAC 302.04 [high schools]).
- 19. Assessment of Pupils.** Describes the requirements for student assessment, testing, and achievement (ARS §§15-183 (E)(4) and 15-741, and Arizona Administrative Code (AAC) R7-2-310).
- 20. School Report Cards.** Describes the required content of school report cards, which must be distributed annually by all public schools in Arizona, including Charter Schools, on a standardized report form developed by the Department of Education (ARS §15-183(E)(4)). The Department of Education is to compile an annual report which contains the report card from each school in the State (ARS §15-746).
- 21. Education of Language Minority Students.** Requires schools to identify the primary language of all students, to assess language minority students for English proficiency and provide programs for structured English immersion. (ARS §15-751, *et seq.* and AAC R7-2-306). [Note: The U.S. Supreme Court in *Lau v. Nichols*, 414 U.S. 563 (1974), determined that failure to affirmatively address the language needs of pupils who are limited English proficient is a denial of their civil rights (Title VI).]
- 22. Special Education.** Requires all schools to identify, screen and evaluate, where indicated, children with disabilities who may require special education services. For those who qualify, an individualized education program must be developed which ensures that the pupil is provided with a free appropriate public education. Charter schools are required to comply with all special education laws regarding children with disabilities in the same manner as a school district (ARS §15-183(E)(7)). Also, ARS §15-881 requires that the school offer extended school year services to children with disabilities who require them in order to prevent irreparable harm or when the pupil has reached a critical learning period (ARS §15-761, *et seq.* and AAC R7-2-401 *et seq.*).
- 23. Compulsory Attendance.** Requires that all children between the ages of six and sixteen years receive instruction in at least the subjects of reading, grammar, mathematics, social studies and science in a public or private school, or a home school (ARS §15-802).
- 24. Suspension and Expulsion.** ARS §15-840 defines "expulsion" and "suspension." The responsibilities of pupils, and offenses for which expulsion is allowed, are contained in ARS §15-841. The suspension and expulsion of children with disabilities must be accomplished in compliance with Federal and State laws and regulations (ARS §15-844). All students are entitled to a hearing which incorporates the rights established in the U.S. Supreme Court case, *Goss v. Lopez*, 419 U.S. 565 (1975), including the right of the pupil to be advised of the allegations against him/her and the right to tell his/her side of the story.
- 25. Admission Requirements.** The admission requirements applicable to Charter Schools are found at ARS §15-184.

26. Birth Certificate. On enrollment of a pupil for the first time, the school must notify the person enrolling the pupil in writing that within thirty days s/he must provide one of the following: 1. A certified copy of the pupil's birth certificate; 2. Other reliable proof of the pupil's identity and age (i.e., a baptismal certificate, an application for a Social Security number, or original school registration records, and an affidavit explaining the inability to provide a copy of the birth certificate); 3. A letter from the authorized representative of an agency having custody of the pupil pursuant to Title 8, Chapter 2, certifying that the pupil has been placed in the custody of the agency as prescribed by law (ARS §15-828).

27. Flagging School Records. When a school is notified that a child is reported by a parent or guardian as missing, the school shall flag the records of the child. If a copy of or information regarding the records is requested, the school must immediately report the request to a local law enforcement agency (ARS §15-829).

Immunization. A pupil shall not be allowed to attend school without submitting documentary proof of immunization to the school administrator unless the pupil is exempted from immunization or the pupil has received at least one dose of each of the required immunizations and has established a schedule for the completion of the required immunizations (ARS §15-872); AAC R7-6-701, et seq.. Exemption from the immunization requirements may be granted under limited circumstances, but the pupil may be excluded from attendance during outbreak periods of communicable diseases for which immunizations are available (ARS §15-873; AAC R7-6-705). A related provision at ARS §36-673 requires local health departments to provide vaccinations and immunizations in cooperation with schools.

28. Funding. For purposes of public funding of schools, the definitions contained in ARS §15-901 shall apply. The specific provisions for Charter Schools are located at ARS §15-185.

29. Board of Regents and University Scholarships. State public universities must establish equitable policies for granting scholarships and tuition waivers which include opportunities for all Arizona students including those attending charter schools. (ARS §15-1646).

Title 23: Employment Practices and Working Conditions

1. General Provisions. Statutes prohibit obtaining labor by false pretenses, including the requirement that an employer have sufficient resources to pay at least two weeks of accumulated wages (ARS §23-201). Also regulated are hours of labor (Ariz. Const., Art. 18, §1); equal wages (ARS §23-340 and 341); payment of wages (ARS §23-350 through 361); where applicable, wages and hours of public employees (ARS §§23-391 and 392).

2. Occupational Health and Safety. State statutes require that employers provide safe employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. Requires the establishment of safety and health standards and regulations and allows inspections to ensure compliance. Enforcement provisions, penalties, hearing procedures, and related rights of

employees and employers are specified (ARS §§23-401 through 433). Provisions are consistent with the Federal Fair Labor Standards Act (29 USC §§651-678).

3. **Employment Security.** Defines "employer" (ARS §23-613); "employee" (ARS §23-613.01); "employment" (ARS §23-615 and 615.01); "exempt employment" (ARS §23-617); "fund" (ARS §23-618); "unemployed" (ARS §23-621); "wages" (ARS §23-622), and "week" (ARS §23-623). Provisions for administrative hearings, decisions and orders are also made (ARS §§23-671 through 683). The unemployment compensation fund provisions are found at ARS §§23-701 through 766, including those related to work records, reports and disclosure of information, accounting, rates, assessments and penalties.

Workers' Compensation. Employers subject to Worker's Compensation laws include the state, each county, city, town, municipal corporation, school district and every person who has in his or her employ any workers or operatives regularly employed in the same business or establishment under contract of hire, except domestic servants. "Regularly employed" includes all employment, whether continuous or for only a portion of the year. The provisions of the law are found at ARS §§23-901 through 1073, including administration and enforcement provisions; administrative hearing rights, procedures, hearings and orders; providing for compensation; the State Compensation Fund provisions and administration; insurance under the compensation fund; the amount of compensation to be paid, and the payment of compensation.

4. **Labor Relations.** Prohibits: (a) persons from being denied the opportunity to obtain or retain employment because of nonmembership in a labor organization (ARS §23-1302), and provides that any act or agreement in violation of these provisions is illegal and void (ARS §23-1303); (b) the threatening or interference with a person, the person's family or property, to compel the joining of a labor organization, strike or to leave employment (ARS §23-1304); (c) picketing (ARS §23-1322); and (d) blacklisting (ARS §§23-1361 and 1362).

Title 28: Transportation

1. **Driver's Licenses.** The classes of driver's licenses are found at ARS §28-3101. The laws related to issuance, expiration and renewal of licenses are found at ARS §§28-3151 through 3173; of particular importance are those provisions related to school bus drivers (ARS §28-3228).
2. **Traffic Regulation on Highways.** The general provisions related to driving are found at §§28-601 through 984. Of particular relevance to Charter Schools are those provisions related to school crossings (ARS §28-797); special stops, including the requirement that school buses and other vehicles stop at all railroad grade crossings (ARS §28-853); overtaking and passing of school buses (ARS §28-857); and reporting of violations by school bus operators (ARS §28-857.01); restrictions on the number of children on a school bus, requirements for receiving or discharging school children at school (ARS §28-901); special lighting on school buses (ARS §28-930); rear fender splash guard requirements (ARS §28-958.01); annual inspection requirements for school buses (ARS §28-984). *See also* Title 17 of the Arizona Administrative Code (AAC) R17-4-601 through 612.

Title 34: Public Buildings and Improvements

Local Codes. Public buildings must be designed or constructed according to the state fire code adopted by the state fire marshal and applicable building, plumbing, electrical, fire prevention and mechanical codes adopted by the city or town in which the building is located, or, if in an unincorporated area, by the county in which the building is located in the same manner as any other building. The owner of the public building is subject to the same fees required of other persons and public buildings and are subject to inspection during construction to ensure compliance. "Public building" means a building or appurtenance to a building which is built in whole or in part with public monies (ARS §34-461).

Title 36: Public Health and Safety

- 1. Report of Contagious Diseases.** A person who learns that a contagious, epidemic or infectious disease exists shall immediately make a written report of the particulars to the appropriate board of health or health department. The report must include names and residences of persons afflicted with the disease (ARS §36-621; R9-6-336 Measles (Rubeola); R9-338 Mumps; R9-6-339 Pediculosis (Lice Infestation); R9-6-340 Pertussis (Whooping Cough); R9-6-349 Rubelola (German Measles); R9-6-352 Scabies; R9-6-365 Varicella (Chicken Pox); R9-6-601 Tuberculosis).
- 2. Child Day Care Programs.** ARS §36-884 provides that if a public school provides child care other than during regular school hours or for children who are not regularly enrolled in Kindergarten programs or grades one through twelve, that portion of the school that provides child care is subject to standards of care prescribed pursuant to ARS §36-883.04.
- 3. Child Hearing Programs.** Unless a parent specifically refuses to allow a child to have a hearing test, the Department of Health Services must provide hearing evaluation services for all children in public or private education programs. Schools must cooperate in the implementation of the child hearing program (ARS §§36-899 through 899.04).
- 4. Confidential Records.** Behavioral health records may be disclosed to the Department of Education or school district of residence [or Charter School] of a person between three and twenty-two years of age for whom the information is necessary in order to comply with the Individuals with Disabilities Education Act (IDEA). The information shall be limited to evaluation and treatment information that affects the educational programming and placement decisions for the patient (ARS §36-509(A)(10)). The Department of Health Services (ARS §36-531(E)) or the Department of Economic Security (ARS §36-555(A)) may conduct joint evaluations with school districts [and Charter Schools] and other state agencies, and may share evaluation information for the purposes of complying with the IDEA.
- 5. Smoking in Public Buildings.** Prohibits smoking in school buildings (ARS §36-601.01).
- 6. Construction in Public Buildings.** Requires that doors on school buildings and auditoriums open outward (ARS §36-1641).

7. **Lead Based Paint.** Prohibits the application of lead-based paint to any interior surface of a public building or to the exteriors and porches of buildings which are readily accessible to children under seven years of age (ARS §36-1674).
8. **Swimming Pools.** Any Charter School located in a building which has a swimming pool must comply with the pool enclosure requirements of ARS §36-1681.

Title 38: Public Officers and Employees

1. **Unlawful Reprisal** It is a prohibited personnel practice for an employee who has control over personnel actions to take reprisal against an employee for a disclosure of information by the employee to a public body which the employee reasonably believes evidences a violation of any law or mismanagement (a gross waste of monies or an abuse of authority) (ARS §38-532).
2. **Compensation for Legal Holidays.** All public employees who work forty hours or more per week who do not receive either compensation or commensurate time off for legal holidays worked, regardless of the day of the week on which the holidays fall, shall receive, for each such holiday worked, one day additional vacation leave or one day additional compensation for each such legal holiday worked (ARS §38-608).
3. **Military Training.** Employees and officers of the State, or of any county, city or town, or of any agency or political subdivision, must be granted leaves of absence from their duties without loss of time, pay or efficiency rating, on all days during which they are employed on training duty or to attend camps, maneuvers, formations or drills under orders with any branch, reserve, or auxiliary of the armed forces of the United States, for a period not to exceed thirty days in any two consecutive calendar years. This time may not be deducted from the vacation period with pay to which any employee is otherwise entitled (ARS §38-610). An employer must permit members of the National Guard to take leaves of absence for the purpose of complying with competent orders of the state or United States for active duty or to attend camps, maneuvers, formations, or armory drills. These leaves of absence do not affect any vacation rights the employee has (ARS §26-168).
4. **State Retirement System** All employees and officers of the State, instrumentalities and political subdivisions establishing a retirement system shall be subject to the State Retirement System unless exempted by another provision of law. This includes all employees and officers of political subdivisions and instrumentalities of political subdivisions whose compensation is provided wholly or in part from State funds and who are declared to be State employees and officers by the Legislature (ARS §38-711 *et seq.*).

Title 41: State Government

1. **Arizonans with Disabilities.** Requires that all public buildings and buildings in which public services are provided be physically accessible to persons with disabilities. The non-

discrimination provisions also prohibit indirect discrimination through contracting, licensing or other arrangements (ARS §§41-1492 through 41-1492.11).

2. **Public Records Management.** Requires the management of public records in a manner consistent with the procedures established by the Department of Library, Archives and Public Records (ARS §41-1346).
3. **Preservation of Public Records.** Requires that records made by public officials in the course of their public duties are the property of the State and may not be destroyed or otherwise disposed of by any agency of the State, unless it is determined to have no further administrative, legal, fiscal, research or historical value. Statutory provisions may apply to those records of the Charter School which are required to be maintained for State or Federal audit purposes. (ARS §41-1346 through 1350, 1354)
4. **Nondiscrimination in Employment.** It is unlawful for an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate with respect to compensation, terms, conditions or privileges of employment because of race, color, religion, sex, age, handicap or national origin (ARS §41-1463(B)(1)). It is also unlawful to limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or adversely affect the individual's status as an employee on the basis of race, color, religion, sex, age, handicap or national origin (ARS §41-1463(B)(2)). It is an unlawful employment practice for an employer to discriminate against any employee or applicant for employment because the employee or applicant has opposed an unlawful employment practice (ARS §41-1464). Employers must maintain records relevant to the determination of whether unlawful employment practices have been or are being committed, unless an exemption is granted (ARS §41-1482).
5. **State Fire Marshal.** The Fire Marshal shall enforce rules and regulations for establishing programs for evacuating school buildings and for instructing all students in public and private schools as to proper methods of fire prevention and control (ARS §41-2165). The Fire Marshal must also assist in the enforcement of State laws and ordinances of cities and counties relating to fire prevention and protection, establish a regularly scheduled fire safety inspection program for all State and county-owned public buildings and all public and private school buildings (ARS §41-2163).